

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRUNO RICHARD and DOMINIQUE VICARD

MAILED

JUL 19 2007

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application 10/012,466

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 9, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF

Appellants filed an Appeal Brief on June 19, 2006. A review of the application reveals that the Appeal Brief does not contain the appropriate headings as set forth in the new rules under 37 C.F.R. 41.37(c) effective September 13, 2004.

37 CFR 41.37(c) states:

(a)(1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.

...

(c)(1) The brief shall contain the following items...of this section:

(v) ***Summary Of Claimed Subject Matter.*** A concise statement of each ground of rejection presented for review.

An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief. The Appeal Brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claims argued separately, every means plus functions and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with references to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

(vi) ***Grounds of rejection to be reviewed on appeal.*** A concise statement of each ground of rejection presented for review. The statement cannot include any argument concerning the merits of the ground of rejection presented for review.... See (37 CFR 41.37(c)(1)(vi)).

Section 37 CFR § 41.37(c) further states:

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

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Applicants must file a corrected Appeal Brief to correct all the above identified deficiencies. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. *See MPEP § 1215.04 and § 711.02(b).*

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- (1) hold the Appeal Brief filed on June 19, 2006 defective;
- (2) notify applicants to file a "corrected" Appeal Brief in compliance with 37 CFR 41.37; and
- (3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS AND INTERFERENCES



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